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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,357	12/29/2000	Aleksandra Kolosowsky	H17-26086 US	8831

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EXAMINER

CRUZ, MAGDA

ART UNIT PAPER NUMBER

2851

DATE MAILED: 12/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/751,357

Applicant(s)

KOLOSOWSKY, ALEKSANDRA

Examiner

Magda Cruz

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 03 October 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 10/03/2002 have been approved. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 6-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. The phrase "between about" renders claims to be indefinite. The applicant is respectfully requested to be more specific about the range for the numeric aperture. It is unclear if the applicant means an approximate lower range and a definite upper range or an approximate lower and an approximate upper range.

b. Claims 7-8 fall with parent claim 6.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chambers et al. in view of Adventures in Fiber Optics Kit by Industrial Fiber Optics, Inc.

Chambers et al. (US Patent Number 5,626,410) discloses a projection screen (48) for displaying an image (50) from an image source (52), comprising a first diffusing assembly including a pre-screen (42) comprising at least a faceplate (40) and a second diffusing assembly comprising a diffused rear projection screen (36), including an anti-reflection coating (46) on a viewing side of said projection screen (column 4, lines 21-23), comprising fibers having a numeric aperture within a range of 0.2-0.66 (column 4, lines 1-3).

Chambers et al. teaches the salient features of the present invention, except an optical faceplate of fibrous crystal, wherein the material of said optical faceplate is a lab-grown Ulexite.

Adventures in Fiber Optics Kit by Industrial Fiber Optics, Inc. discloses an optical faceplate of fibrous crystal (page 9, lines 26-28), wherein the material of said optical faceplate (page 10, last paragraph) is Ulexite (page 9, lines 14-16).

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It would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize the Ulexite optical faceplate disclosed by Adventures in Fiber Optics Kit by Industrial Fiber Optics, Inc. in combination with Chambers et al.'s invention, for the purpose of transferring the image to be displayed.

Furthermore, it is well known in the art the development of different methods for growing crystals in a laboratory. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize a lab-grown crystal for the purpose of having the ability and advantage to obtain better quality crystals, than the ones found in nature, and having a steady supply of said crystals.

Response to Arguments

4. Applicant's arguments filed 10/03/2002 have been fully considered but they are not persuasive.
5. The examiner has reviewed MPEP 2173.05(b)(A) as well as Ex Parte Eastwood, 163 USPQ 316. In Eastwood it was found that the term "about" in claiming use of an "area of between 25 to about 45%" was not indefinite. The present application differs from Eastwood in that Eastwood had a definite lower range and an approximate upper range. In the present application it is unclear if the applicant has an approximate lower range and a definite upper range or if both upper and lower numbers are approximates.
6. Applicant has alleged that one of ordinary skill in the art would be able to ascertain the numerical aperture range by reading the specification. However, the specification just repeats what is recited in the claims. If one of ordinary skilled in the art

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would understand the range upon reading the specification, the applicant, being of at least one ordinary skilled in the art, if not extraordinary skilled in the art, should be able to explain to clarify for the examiner what is meant by a range about 0.20-0.66.

Clarification is respectfully requested.

The use of the term "about" is acceptable especially when used to account for manufacturing tolerances. If this is at least one of the purposes for using this relative term, acknowledgement of such will be sufficient to overcome the rejection under the 35 U.S.C. 112, second paragraph. The applicant would still need to clarify if both upper and lower numbers are approximate.

7. The applicant has argued that the motivation of the examiner to combine the references is "a mere conclusory statement of subjective belief". However, Adventures in Fiber Optics Kit by Industrial Fiber Optics, Inc. teaches "the purpose of transferring the image to be displayed". This is taught on page 9, lines 18-20.

8. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

9. The applicant has argued that the prior art does not suggest "any other faceplate could be used". However, Adventures in Fiber Optics Kit by Industrial Fiber Optics, Inc. teaches the equivalency between the fiber optic array (i.e. fiber bundles) and the faceplates. This is taught on page 10, last paragraph.

10. The applicant argues that Chambers et al. teaches away from using a faceplate because it teaches embodiments with a faceplate and embodiments without a faceplate. Just because there is one embodiment without a faceplate does not mean that the reference teaches away from using a faceplate. The fact that one embodiment teaches the use of a faceplate shows that it was known to use the Chambers invention with a faceplate. The fact that there are different embodiments is evidence of the versatility of the Chambers invention and the anticipation of modifications for the Chambers invention.

11. On page 5 of the October 3, 2002 response the applicant once again alleges that there is no motivation to combine the references. As stated supra, the motivation may be found at page 9 of the Adventures in Fiber Optics Kit by Industrial Fiber Optics, Inc. reference.

12. The final argument presented is that the Adventures in Fiber Optics Kit by Industrial Fiber Optics, Inc. teaches away from using Ulexite because it has no commercial use. The reasoning is a statement that "Ulexite is a low grade boron source with no commercial use." The rest of the article is in itself proof of a commercial use for Ulexite since the rest of the article suggests using Ulexite. See for example page 9, lines 46-47.

The examiner further notes that it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. In re Leshin, 125 USPQ 416.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure, including parole evidence of the commercial value of Ulexite.

Konishi (US Patent Number 6,243,082 B1) discloses a display apparatus comprising a transparent or translucent display plate, such as Ulexite.

Nougaret, et al. (US Patent Number 6,476,378 B1) teaches an optical device made of a bundle of optical fibers, a fibrous crystal, or a glass mosaic.

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

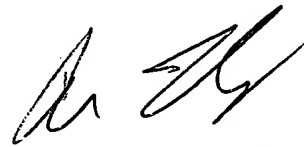
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Magda Cruz whose telephone number is (703)308-

6367. The examiner can normally be reached on Monday through Thursday 8:00-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russ Adams can be reached on (703)308-2847. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9318 for regular communications and (703)872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1782.

Magda Cruz
Patent Examiner
December 9, 2002



CHRISTOPHER MAHONEY
PRIMARY EXAMINER